

## **Old Law Gives DeLay New Trouble**

Travis DA investigates if committee violated 1907 ban on using corporate funds in elections

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**CORRECTION:** This story contained an incorrect date for when Texas adopted a ban on using corporate contributions in political campaigns. The prohibition was adopted in 1905. Correction published 3/6/04.

AUSTIN - Texans for a Republican Majority was U.S. House Majority Leader Tom DeLay's statewide political operation, a committee that played a fast and loose, Washington style of campaign funding.

The committee won legislative victories in Austin that reflected glory on the Sugar Land Republican and enhanced his political power in Washington. Now, Texans for a Republican Majority may become DeLay's political bane.

Travis County prosecutors, using a law first passed in 1907 (SEE **CORRECTION**), are investigating whether DeLay's operatives committed a felony by breaking the only major restriction on campaign finance in Texas - a ban on using corporate or labor union money to influence elections.

DeLay helped create Texans for a Republican Majority and raised most of the corporate money in question, but his aides portray him as little more than a figurehead in the committee's operations. They also contend any spending of corporate money was for legitimate administrative expenses allowed under state law.

Subpoenas made public last week show prosecutors want to know what role DeLay had in guiding Executive Director John Colyandro in the organization's operations. A direct decision-making role could make DeLay liable for any misdeeds by the committee.

In Austin, the organization is known as TRM, pronounced Trim, and its political action committee is called TRMPAC.

"We're looking at everybody connected with TRMPAC," said Assistant District Attorney Greg Cox, who declined to say specifically if DeLay is a target of the investigation. "Until we get all the facts in, we don't know. But I can see it being broader than just the director and the people who worked with him."

Terry Scarborough, a lawyer who represents TRM Treasurer Bill Ceverah in a civil lawsuit brought by losing Democratic candidates, said the investigation is misdirected when it comes to DeLay.

"There is no evidence in the case that Tom DeLay had anything to do with day-to-day operations," Scarborough said.

DeLay served as head of a TRM advisory board. The question for prosecutors is just how much did the advisory board know about TRM's fund raising and spending.

"In terms of a day-to-day decision about who they would support and what amounts, that was done by Colyandro. On occasion there would be a phone call to ratify his recommendation about who would get what money and in what amount," Scarborough said.

Colyandro's deposition in the civil lawsuit, taken in December and recently obtained by the Houston Chronicle, indicates the advisory board and DeLay knew how TRM was operating.

"We would have regular meeting conference calls to discuss matters related to the overall administration of the committee," Colyandro testified. "And when it came to broadly making decisions about who, which candidates we would support and with what amount of financial assistance, at that point the advisory board was involved with those types of decisions."

In another document obtained by the Chronicle, an Oct. 4, 2002, memo from TRM, Austin fund-raiser Susan Lilly discussed an upcoming conference call with donors in which DeLay would "update everyone on TRMPAC's efforts to date and to discuss our strategy for victory in the final weeks of the campaign."

DeLay has called the investigation political and said Travis County District Attorney Ronnie Earle is "vindictive and partisan."

Earle dismissed the accusation, saying he has prosecuted 11 Democratic elected officials and four Republicans. He lost his two most high-profile cases: Democratic Attorney General Jim Mattox in 1984 and Republican U.S. Sen. Kay Bailey Hutchison in 1993.

The main law Earle is using in his investigation dates back to at least 1907, said Ethics Commission Executive Director Karen Lundquist. She said the law was born in response to political abuses by the "Robber Barrons" in the late 1800s. She said state law gives corporations an advantage in accumulating wealth and it was believed that wealth should not be used to influence policy.

But the law has been seldom used. The ethics commission handled two cases as civil actions in the 1990s. Court records show the Harlingen Police Officers Association Inc. was prosecuted and paid a \$3,000 fine in the late 1990s for making direct donations to candidates.

A violation is a third-degree felony, punishable by two to 10 years in prison and a fine of up to \$10,000, Lundquist said.

The law in question - Election Code 253.094 - states simply that "a corporation or labor organization may not make a political contribution or political expenditure." But there is an exception for administrative expenses related to a political committee's operations.

TRM officials admit spending corporate money on political activities such as fund-raising, issue development, candidate recruitment and phone banks to sway voters in the election, but they claim only direct contributions to candidates is banned.

Earle's prosecutors believe TRM's definition is too broad and that illegal spending probably occurred.

Corporate spending on campaigns also has been illegal in federal elections, but Washington politicians of both parties in the 1980s and 1990s found ways to circumvent the law through third-party political committees. When DeLay's operatives set up TRM, they did it in the style of a national third-party committee.

TRM was a spin-off of DeLay's Americans for a Republican Majority and worked in conjunction with business committees to help the GOP in the 2002 elections take control of the Texas House for the first time since Reconstruction. That resulted in the election of party stalwart Tom Craddick as speaker.

The payoff for DeLay was a congressional redistricting bill that likely will give Republicans seven Texas seats in the U.S. House that they did not hold in 2002. That will enhance DeLay's chances of someday becoming U.S. speaker, the powerful gatekeeper for federal legislation and second in line of succession to the presidency.

TRM was overseen by DeLay's national political director Jim Ellis, along with ARMPAC consultant Colyandro. DeLay's daughter Danielle Ferro was a TRM staff fund-raiser. DeLay national fund-raiser Warren Robold coordinated the campaign to collect corporate money. And TRM also employed Terry Allen of Washington-based Alexander Strategies, a firm run by former DeLay chief of staff Ed Buckham.

TRM's stated mission was to "help Republican candidates successfully run and win campaigns in Texas." Its self-described top priority was to "elect a (state) House Republican majority to help guarantee the election of a Republican speaker." House members elect the speaker.

Within that framework, TRM was like any other political organization. Where it differed was in raising a third of its \$1.5 million from corporations. Seventy-five percent of TRM's corporate money came from out-of-state companies with issues pending before the U.S. House.

Five political committees were involved in the drive to win a House GOP majority. Earle's investigation is focused on TRM and the Texas Association of Business, which serves as the state organization for local Chambers of Commerce.

Directors of the committees have denied that they illegally coordinated their efforts with each other on the campaigns of candidates. But they have admitted keeping each other informed as they targeted 24 House races for Republican victory. Their campaign produced 21 winners.

The investigation began after TAB President Bill Hammond published a newsletter bragging that he had raised \$1.9 million in corporate money to run a successful campaign to win the House seats. The TAB money was spent on a direct mail "educational" campaign that described Democratic candidates as anti-business or as tools of personal injury trial lawyers.

TAB lawyer Andy Taylor said there was nothing illegal about the mailings. He said none expressly advocated for the election or defeat of a candidate.

"Our position is Ronnie Earle is trying to criminalize for partisan political reasons TAB's right of free speech," Taylor said.

The investigation was expanded after Craig McDonald, executive director of Texans for Public Justice, an advocacy organization, filed a criminal complaint against TRM. He alleged that TRM's corporate fund raising far exceeded administrative expenses allowed by law.

Additional questions have since arisen about whether Craddick violated restrictions in the state's speakers race law by delivering \$152,000 in TRM contributions to 14 Republican House candidates. Craddick has said there was nothing wrong in his action because the candidates already were pledged to vote for him as speaker if they won office.

Prosecutors also are looking at whether Colyandro and Ellis traded \$190,000 in TRM corporate money with the Republican National State Elections Committee to obtain a like amount of contributions for seven House Republican candidates. Ellis and RNSEC officials have denied they contributions were swapped in anything resembling a money-laundering operation.

While TRM officials argue their corporate spending was for legal administrative expenses, they also say that if it was not legal then the law is a problem for almost every political committee in Austin.

In a letter to Earle last year, TRM lawyer John A. Riley said organizations such as the Texas Civil Justice League and the Texas Association of Realtors reported no administrative costs for running their political committees in reports filed with the Texas Ethics Commission.

"Either everybody's OK, or everybody's wrong," said TRM director Ellis.

But Assistant District Attorney Greg Cox said TRM was different from any of the other political committees cited in the letter by Riley because of the volume of corporate donations it raised.

Cox said other committees such as Laney's Partnership raised about \$50,000 a year to cover utilities and bookkeeping expenses that are acceptable under the law. That is nowhere close to TRM's \$574,000 in corporate fund raising.

Cox said he found some abuses in other political committees but no explicitly illegal conduct or attempts to circumvent the law.

"It looks like a gradual pushing of the envelope until one day John Colyandro decided to rip it open and go for broke with it," Cox said.

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#### GOP FUNDING

Texans for a Republican Majority's finances:

Total raised from individuals and corporations: \$1.5 million

Portion raised from corporations: \$574,550

Total spending: \$1.4 million

Donated to candidates: \$633,500

Donated to the Republican National State Elections Committee: \$190,000\*

Spent on consulting, fund-raising, research, voter contact, salaries:  
\$534,503\*

Other expenses: \$39,472

\*Spending that is subject to the criminal investigation

Graph: 1. GOP FUNDING (TEXT, color); Photo: 2. House Majority Leader Tom DeLay, R-Texas, has branded the TRM investigation political and called Travis County District Attorney Ronnie Earle "vindictive and partisan."